IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Crl.MC.No. 2905 of 2007()

SC.592/2003 of PRINCIPAL ASSISTANT SESSIONS COURT, KOLLAM
.....

PETITIONER: 2ND ACCUSED

PRAMOD KUMAR C.A., S/O CHELLAPPAN,
AGED 42 YEARS, KSRTC CONDUCTOR, KOLLAM DEPOT,
RESIDING AT KURUMPELIL HOUSE, KADAVOOR,
PERINADU P.O., KOLLAM.

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)
SRI.S.HARIKRISHNAN

RESPONDENTS:
---

1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
ANCHALUMMOOD, KOLLAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2905 of 2007

Dated this the 18th day of September, 2007

O R D E R

The petitioner is the 2nd accused in a Sessions Case registered as early as in 2003. The petitioner faces allegations, inter alia, under Section 333 Cr.P.C. The matter stood listed for trial to 4.9.07. On that date, admittedly the petitioner was not present. The counsel for the petitioner allegedly relinquished the vakalat on that date on which the case stood posted for trial. Consequently, the learned Sessions Judge has issued non bailable warrant to procure the presence of the petitioner. Steps have been taken against the sureties also. It is, in these circumstances, that the petitioner has come to this Court with this petition under Section 482 Cr.P.C.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner on 4.9.07 was not wilful or deliberate. The petitioner is now prepared to surrender before the learned Sessions Judge and seek regular bail. But the petitioner apprehends that his application for regular bail may not be considered by the learned Sessions Judge on merits, in accordance with law and expeditiously. Therefore it is prayed that

appropriate directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Sessions Judge and explain to the learned Sessions Judge the circumstances under which he could not earlier appear before the learned Sessions Judge. I have no reason to assume that the learned Sessions Judge would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. When a Sessions Case is posted for trial, greater sense of responsibility is expected from the parties and counsel. On a date when the case was listed for trial, the accused cannot afford not to appear, and if he is not in a position to appear, I must certainly feel that the counsel must be in a position to make necessary application to represent him and proceed with the trial. The learned Sessions Judge cannot be found fault with in taking coercive steps against the petitioner and his sureties.

5. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the

learned Sessions Judge and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Sessions Judge must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-